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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,532	01/18/2002	Ronald D. Matich	RDM-FaceMask1	3231
22476	7590	12/22/2003	EXAMINER	
HAUGEN LAW FIRM SUITE 1130 - TCF TOWER 121 SOUTH EIGHTH STREET MINNEAPOLIS, MN 55402			PATEL, MITAL B	
			ART UNIT	PAPER NUMBER
			3743	
DATE MAILED: 12/22/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,532

Applicant(s)

MATICH, RONALD D.

Examiner

Mital B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 18-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, Claims 1-17 and 28 in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: reference character 76. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Belfer et al (US 5,918,598).

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5. **As to claim 1**, Belfer teaches a sealed face mask **10**, comprising: a covering **20**, **22** for the nostrils and mouth; wherein the covering includes a periphery completely surrounding the nostrils and mouth, wherein the periphery is structured to extend from a first position on the bridge of the nose above the nostrils to the right side of the nose, from said right side of the nose to a position on the front of the face beyond the right side of the mouth, from said position beyond the right side of the mouth to a position on the front of the face below the lower lip and on the front of the chin, from said position below the lower lip to a position on the front of the face beyond the left side of the mouth, from said position beyond the left side of the mouth to the left side of the nose, from said left side of the nose back to said first position on the bridge of the nose such that the nostrils and mouth are completely surrounded; wherein the covering comprises a portion projecting outwardly of the mouth, with the portion projecting outwardly of the mouth being within the periphery and being convex relative to an exterior of the portion; wherein the covering is structured to permit air into and out of the covering; wherein the covering is structured to minimize a flow of substances into and out of the covering; and a seal **52** on the periphery, wherein the seal includes an adhesive that sticks to skin to minimize an amount of substances that access the nostrils and mouth via a route between the periphery and the face and to maximize the amount of substances that are trapped by the covering (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**).

6. **As to claim 2**, Belfer teaches a mask wherein the adhesive is skin unfriendly such that, when the seal is removed from the face, the horny layer of the skin beneath the adhesive is removed with the adhesive, wherein the adhesive that is

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skin unfriendly extends entirely about the periphery (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**).

7. **As to claim 3**, Belfer teaches a mask wherein the seal includes a first face having a first adhesive for confronting the periphery and wherein the seal includes a second face having a second adhesive for confronting the skin of the face, wherein the periphery comprises a first material, wherein the first adhesive includes a first strength for engaging said first material, wherein the second adhesive includes a second strength for engaging the skin of the face, and wherein said second strength relative to the skin of the face is greater than the first strength relative to the first material of the periphery such that, when the face mask is removed from the face, the seal remains on the skin of the face (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**).

8. **As to claim 4**, Belfer teaches a mask wherein the seal includes a first face having a first adhesive for confronting the periphery and wherein the seal includes a second face having a second adhesive for confronting the skin of the face, wherein the periphery comprises a first material, wherein the first adhesive includes a first strength for engaging said first material, wherein the second adhesive includes a second strength for engaging the skin of the face, and wherein said first strength relative to the first material of the periphery is greater than the second strength relative to the skin of the face such that, when the face mask is removed from the face, the face mask and seal are removed from the face (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**).

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9. **As to claim 5**, Belfer teaches a mask wherein the adhesive is skin friendly such that, when the seal is removed from the face, the horny layer of the skin beneath the adhesive remains on the face (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**).

10. **As to claim 6**, Belfer teaches a mask wherein the seal comprises: a) a strip having a first face with a first adhesive and a second face with a second adhesive, wherein the first face confronts said periphery of the covering and wherein the first adhesive engages said periphery, and wherein the second face confronts the skin of the face and wherein the second adhesive engages the skin of the face; and b) wherein the strip is elastomeric to accommodate movement of the skin of the face (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**).

11. **As to claim 7**, Belfer teaches a mask, wherein the periphery of the covering is elastomeric to accommodate movement of the strip (**See Col. 6, lines 43-48**).

As to claim 8, Belfer teaches a mask wherein the second adhesive is elastomeric to further accommodate movement of the skin of the face (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**).

As to claim 9, Belfer teaches a mask wherein the first adhesive is elastomeric to relate the strip to the periphery of the covering (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belfer et al (US 5,918,598) in view of Braunroth (US 4,503,851).

14. **As to claim 10**, Belfer teaches essentially all of the limitations except for wherein the mask further comprising a neutralizing agent engaged to the covering where the covering is structured to permit air into the covering to maximize the chances that substances passing through the covering are rendered less harmful by the neutralizing agent. However, Braunroth teaches a mask comprising a neutralizing agent to mask odors. Therefore, it would be obvious to one of ordinary skill in the art to modify the mask of Belfer to include a neutralizing agent in order to mask unpleasant odors.

15. **As to claim 11**, Belfer teaches essentially all of the limitations except for wherein the mask further comprising activated charcoal engaged to the covering where the covering is structured to permit air into and out of the covering to maximize the chances that substances passing through the covering are rendered less harmful by the activated charcoal. However, Braunroth teaches a mask comprising an activated charcoal/carbon to mask odors. Therefore, it would be obvious to one of ordinary skill in the art to modify the mask of Belfer to include an activated charcoal/carbon in order to mask unpleasant odors.

16. **As to claim 12**, Belfer teaches a sealed face mask **10**, comprising: a covering **20,22** for the nostrils and mouth; wherein the covering includes a periphery completely

surrounding the nostrils and mouth, wherein the periphery is structured to extend from a first position on the bridge of the nose above the nostrils to the right side of the nose, 17. from said right side of the nose to a position on the front of the face beyond the rightside of the mouth, from said position beyond the right side of the mouth to a position on the front of the face below the lower lip and on the front of the chin, from said position below the lower lip to a position on the front of the face beyond the left side of the mouth, from said position beyond the left side of the mouth to the left side of the nose, from said left side of the nose back to said first position on the bridge of the nose such that the nostrils and mouth are completely surrounded; wherein the covering comprises a portion projecting beyond the mouth, with the portion projecting beyond the mouth being within the periphery and being convex relative to an exterior of the portion; wherein the covering is structured to permit air into and out of the covering; wherein the covering is structured to minimize a flow of substances into and out of the covering; and a seal 52 on the periphery, wherein the seal includes an adhesive that sticks to skin to minimize an amount of substances that access the nostrils and mouth via a route between the periphery and the face and to maximize the amount of substances that are trapped by the covering, wherein the adhesive is skin unfriendly such that when the seal is peeled off the face the horny layer of the skin is removed with the adhesive, wherein the adhesive that is skin unfriendly extends entirely about the periphery (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**). It should be noted that Belfer fails to specifically teach a neutralizing agent engaged to the covering where the covering is structured to permit air into the covering to maximize the chances that substances

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passing through the covering are rendered less harmful by the neutralizing agent.

However, Braunroth teaches a mask comprising a neutralizing agent to mask odors.

Therefore, it would be obvious to one of ordinary skill in the art to modify the mask of Belfer to include a neutralizing agent in order to mask unpleasant odors.

18. **As to claim 13**, Belfer teaches a sealed face mask **10**, comprising: a covering **20,22** for the nostrils and mouth; wherein the covering includes a periphery completely surrounding the nostrils and mouth, wherein the periphery is structured to extend from a first position on the bridge of the nose above the nostrils to the right side of the nose,

19. from said right side of the nose to a position on the front of the face beyond the right side of the mouth, from said position beyond the right side of the mouth to a position on the front of the face below the lower lip and on the front of the chin, from said position below the lower lip to a position on the front of the face beyond the left side of the mouth, from said position beyond the left side of the mouth to the left side of the nose, from said left side of the nose back to said first position on the bridge of the nose such that the nostrils and mouth are completely surrounded; wherein the covering comprises a portion projecting beyond the mouth, with the portion projecting beyond the mouth being within the periphery and being convex relative to an exterior of the portion; wherein the covering is structured to permit air into and out of the covering; wherein the covering is structured to minimize a flow of substances into and out of the covering; a seal **52** for engagement to the periphery, wherein the seal includes an adhesive that sticks to skin to minimize an amount of substances that access the nostrils and mouth via a route between the periphery and the face and to maximize the amount of

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substances that are trapped by the covering; and wherein the seal prior to engagement between the periphery and the face comprises a base having two faces, wherein said adhesive that sticks to the skin is engaged to one of said two faces, wherein the other of the two faces includes said adhesive or another adhesive, wherein the seal further comprises prior to engagement between the periphery and the face respective release strips over the adhesive on the two faces (**See Col. 6, lines 49-67, Col. 7 through Col. 8, lines 1-30**). It should be noted that Belfer fails to specifically teach a neutralizing agent engaged to the covering where the covering is structured to permit air into the covering to maximize the chances that substances passing through the covering are rendered less harmful by the neutralizing agent. However, Braunroth teaches a mask comprising a neutralizing agent to mask odors. Therefore, it would be obvious to one of ordinary skill in the art to modify the mask of Belfer to include a neutralizing agent in order to mask unpleasant odors.

20. **As to claim 14**, Belfer teaches a mask wherein the seal prior to engagement between the periphery and the face comprises at least two separate seal elongate portions, wherein each of said at least two separate seal elongate portions comprises the base, faces, adhesive, and release strips.

21. **As to claim 15**, Belfer teaches a mask wherein at least one of said at least two separate seal elongate portions is angular.

22. **As to claim 16**, Belfer teaches a mask wherein at least one of said at least two separate seal elongate portions is linear.

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23. **As to claim 17**, Belfer teaches a mask wherein at least one of said at least two separate seal elongate portions is angular, and wherein at least one of said at least two separate seal elongate portions is linear.

Allowable Subject Matter

24. Claim 28 is allowed over the prior art of record.

Conclusion

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6609516, US 6543450, US 6453902, US 6341606, US 6196223, US 6055982, US 5803075, US 5529056, US 5492882, US 4966140, US 4600002, US 4467799, and US 3357426.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mital B. Patel whose telephone number is 703-306-5444. The examiner can normally be reached on Monday-Friday (8:00 - 4:30).

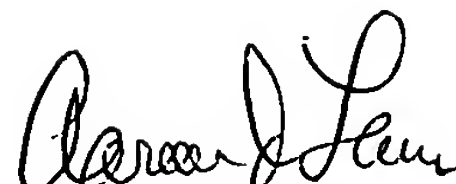
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

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Aaron J. Lewis
Primary Examiner